

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VICTOR R. HERNANDEZ,

Petitioner,

v.

JAMES YATES, Warden,

Respondent.

No. C 08-01154 JF (PR)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL;
GRANTING EXTENSION OF TIME TO
FILE OPPOSITION

(Docket Nos. 9 & 11)

Petitioner, a state prisoner seeking federal habeas relief pursuant to 28 U.S.C. § 2254, has filed a renewed motion for appointment of counsel (Docket No. 9), claiming that he cannot afford counsel and has only a seventh grade level education. (Pet's Mot. at 1.) His first motion for appointment of counsel was denied as the petition adequately set forth his claims. (See Docket No. 8.) The fact that another inmate prepared the petition on Petitioner's behalf does not change the Court's conclusion that the circumstances do not warrant appointment of counsel at this time, particularly in light of the fact that timeliness issues may warrant dismissal on procedural grounds. Petitioner's motion is DENIED at this time. Should the circumstances change materially at a later stage of the litigation, the Court will reconsider this decision sua sponte.

1 Respondents filed a motion to dismiss the petition as untimely. Petitioner requests an
2 extension of time (Docket No. 11) to file an opposition to the motion. Good cause appearing,
3 the request is GRANTED. The Court grants Petitioner an extension of thirty days to file an
4 opposition. Accordingly, Petitioner shall file his opposition no later than **August 22, 2008**.
5 Respondent shall file a reply no later than **fifteen (15) days** after being served with
6 Petitioner's opposition.

7 This order terminates Docket Nos. 9 and 11.

8 IT IS SO ORDERED.

9 DATED: 7/17/08


JEREMY FOGEL
United States District Judge

United States District Court
For the Northern District of California